

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL J. PISKANIN,	)	
	)	Civil Action No. 09 - 322J
Plaintiff,	)	
	)	District Judge Kim R. Gibson
v.	)	Magistrate Judge Lisa Pupo Lenihan
	)	
PA DEPT. OF CORRECTIONS, et al	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

The above captioned case was initiated by the filing of a Civil Rights Complaint and was referred to Magistrate Judge Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges. Plaintiff was granted permission to proceed *in forma pauperis* on April 2, 2010.

On June 4, 2010, Defendants filed a Motion to Dismiss (ECF No. 12) in accordance with 28 U.S.C. § 1915(g). After granting Plaintiff an extension of time to respond, Plaintiff filed a Response to this motion on August 16, 2010 (ECF No. 35). The Magistrate Judge filed a Report and Recommendation on August 17, 2010 (ECF No. 38) recommending that Defendants' Motion to Dismiss the Complaint (ECF No. 12) be granted and that the Court's Order granting Plaintiff's motion to proceed in forma pauperis (ECF No. 4) be vacated, that Plaintiff's motion to proceed in forma pauperis (ECF No. 3) be denied in accordance with 28 U.S.C. § 1915(g) and that this action be dismissed for Plaintiff's failure to pay the filing fee, with the right of Plaintiff to reopen by paying the full \$350.00 filing fee within sixty (60) days. Plaintiff filed Objections to the Report and Recommendation on August 23, 2010 (ECF No. 40).

On August 12, 2010 and on August 24, 2010, Plaintiff filed motions for emergency relief

(ECF Nos. 33 and 41). The Magistrate Judge filed two Report and Recommendations on August 13, 2010 and August 31, 2010, respectively, recommending that Plaintiff's motions for emergency relief be denied (ECF Nos. 34 and 45). Plaintiff filed Objections to the Report and Recommendations on September 13, 2010 (ECF No. 47).

After review of the pleadings and documents in the case, together with the Report and Recommendations, and the Objections thereto, the following order is entered:

**AND NOW**, this 27<sup>th</sup> day of September, 2010;

**IT IS HEREBY ORDERED** that Plaintiff's Motion for Emergency Preliminary Relief (ECF No. 33) is **DENIED**.

**IT IS FURTHER ORDERED** that Plaintiff's Motion for Emergency Relief (ECF No. 41) is **DENIED**.

**IT IS FURTHER ORDERED** that Defendants' Motion to Dismiss the Complaint (ECF No. 12) is **GRANTED**.

**IT IS FURTHER ORDERED** that the Court Order granting Plaintiff's motion to proceed in forma pauperis (ECF No. 4) is **VACATED**, that Plaintiff's motion to proceed in forma pauperis (ECF No. 3) is **DENIED** in accordance with 28 U.S.C. § 1915(g) and this action is **DISMISSED** for Plaintiff's failure to pay the filing fee, with the right of Plaintiff to reopen by paying the full \$350.00 filing fee within sixty (60) days.


**IT IS FURTHER ORDERED** that the Report and Recommendations (ECF Nos. 34, 38 and 45) are **ADOPTED** as the Opinions of the Court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal

Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

Kim R. Gibson  
United States District Judge

cc: Michael Piskanin, GG - 2457  
SCI Cresson  
P.O. Box A  
Cresson, PA 16699-0001